



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C., 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Joshua Stebbins
Sierra Club
50 F St. NW
Suite 800
Washington DC 20001

DEC 21 2017

Re: Freedom of Information Act Request No. EPA-HQ-2017-004813, Final Response

Dear Mr. Stebbins:

This letter is in reference to your Freedom of Information Act (FOIA) request received by the U.S. Environmental Protection Agency (EPA or Agency) on March 13, 2017. In a phone conversation on April 4, 2017, you clarified your request to be seeking (1) records reflecting the Administrator's decision making related to the Fiat-Chrysler investigation, (2) records beyond that which is publicly available through OTAQ's document index system that supported the certification of vehicles involved in the FCA investigation, (3) records demonstrating non-compliance with certificates of conformity related to the FCA investigation and (4) records reflecting an intent to subvert compliance obligations by FCA. In an April 14, 2017 email, you were informed that EPA identified records potentially responsive to part (1), and that parts (2), (3), and (4) would require collection and review of electronic communications between EPA and Fiat-Chrysler. The Agency has completed its collection and review of records and is providing a partial denial response which includes some records produced in full, some with redaction, and some records withheld entirely.

The Agency is producing 638 records in full or with redactions that are responsive to your request. You may access them at this link:

<https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d2810cc2d1>

The Agency is withholding in full 429 records that are responsive to your request. The basis for withholding redacted information is printed above each redaction, and the basis for withholding records that are withheld in their entirety is detailed in the index of withholding that accompanies this letter and your produced records. Withholdings are being made under exemptions 4, 5, 6, and 7(A) of the FOIA. Exemption 4 of the FOIA protects documents that may contain "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. § 552(b)(4). Exemption 5 of the FOIA relates to "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). This material is protected by attorney client privilege. Exemption 6 of the FOIA protects information "the disclosure of which would constitute a clearly unwarranted invasion of personal

privacy.” 5 U.S.C. § 552 (b)(6). Exemption 7(A) of the FOIA protects “records or information compiled for law enforcement purposes” that “could reasonably be expected to interfere with enforcement proceedings.” 5 U.S.C. § 552 (b)(7)(A).

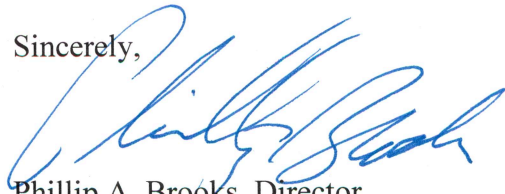
As noted above, the Agency has determined that some information responsive to your request may contain trade secrets or commercial or financial information which is exempt from disclosure under 5 U.S.C. § 552(b)(4). Pursuant to 40 C.F.R. § 2.204(d)(1), your request is initially denied with respect to these portions of records, and the EPA must undergo a confidential business determination to determine whether or not the initially withheld information may be disclosed. If you are interested in the EPA pursuing this confidential business information determination, please request a determination within 90 calendar days from the date of this letter. The EPA will consult with the third parties in connection with their business confidentiality claims and then issue a final determination. You may request a determination through any of the channels described below for communicating an appeal, or you may do so in the same communication as an appeal.

This letter concludes the EPA’s response to your request. If you would like to pursue a confidentiality determination for information initially withheld under 5 U.S.C. § 552(b)(4), please indicate your interest in doing so within 90 calendar days. To the extent you would like to appeal any other issue, including any non-552(b)(4) withholdings, you may appeal this response by email at hq.foia@epa.gov or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue. If you are submitting your appeal by hand delivery, courier service or overnight delivery you must address your correspondence to 1301 Constitution Avenue, N. W., Room 6416J, Washington, DC 20004.

Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 pm EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail to the Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

Sincerely,



Phillip A. Brooks, Director
Air Enforcement Division